

**Conference for Food Protection
2020 Issue Form**

Issue: 2020 III-032

Council Recommendation:	Accepted as Submitted _____	Accepted as Amended _____	No Action _____
Delegate Action:	Accepted _____	Rejected _____	

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Issue History:

This is a brand new Issue.

Title:

Manufacturer cooking instructions and disclosures

Issue you would like the Conference to consider:

The incidence rate for listeriosis, as reported by FoodNet (0.3 per 100,000 population in 2018 (CDC 2019); 0.25 in 2012 (CDC, 2013)), has changed little over the years, despite industry efforts to control *Listeria monocytogenes* in ready-to-eat foods (RTE foods). Foods that are not ready-to-eat (NRTE foods) are rarely associated with foodborne listeriosis, even if contaminated with *L. monocytogenes*, because cooking is an effective control measure to reduce the risk of foodborne listeriosis. Many manufacturers who intend for their food products to be consumed only after cooking provide cooking instructions on the product label. In addition, recent FDA regulations for the production of human food include a provision whereby food manufacturers and farms may sell their food products to a commercial entity for further commercial processing (such as cooking) to control pathogens rather than control the pathogens themselves, as long as the producers of these foods disclose that the pathogens have not been controlled.

At the retail level, there exists a gap. There is no requirement indicating that foods (other than raw animal foods) that are intended for consumption only after cooking be fully cooked prior to consumption. In an effort to ensure that retail food establishments recognize that they receive foods (other than raw animal foods) that may have hazards that need to be controlled by cooking, we would like the Conference to consider modifying the Food Code to specify that: (1) packaged food that bears a manufacturer's cooking instructions shall be cooked according to those instructions before use in foods that will not be cooked or offered to the consumer in unpackaged form for consumption (e.g., frozen vegetables used in refrigerated salads or served on salad bars), unless the manufacturer's instructions also specify that the food also can be consumed without cooking (e.g., dried soup mix with instructions to be cooked as a soup or used uncooked in preparing a dip); and (2) food that bears a disclosure that it has not been processed to control pathogens shall be cooked before use in ready-to-eat (RTE foods) or offered to the consumer for consumption.

Public Health Significance:

The incidence rate for listeriosis, as reported by FoodNet (0.3 per 100,000 population in 2018 (CDC 2019); 0.25 in 2012 (CDC, 2013)), has changed little over the years, despite industry efforts to control *Listeria monocytogenes* in RTE foods. Foods that are not ready-to-eat (NRTE foods) are rarely associated with foodborne listeriosis, even if contaminated with *L. monocytogenes*, because cooking is an effective control measure to reduce the risk of foodborne listeriosis. Food manufacturers that provide cooking instructions on the label or in labeling for their food products, without also providing suggestions for how to use the food product without cooking, generally intend that their food products are NRTE foods that should be consumed only after cooking and that cooking may be necessary to prevent foodborne illness. Frozen vegetables are an example of a food that often bears cooking instructions and are often intended for use only as NRTE food. Frozen vegetables also are an example of an NRTE food that has been linked to foodborne listeriosis, possibly as a result of failure to cook the food. Frozen corn (and possibly other frozen vegetables) that a producer considered to be NRTE food was linked to an outbreak of listeriosis, reported by the European Food Safety Authority (EFSA) and European Centre for Disease Prevention and Control (ECDC), that spanned the years 2015-2018 in five European countries (EFSA and ECDC, 2018). The published report of this outbreak noted that the consumption of thawed corn and thawed vegetables without cooking them is not an unusual practice (e.g. in salads and smoothies). To reduce the risk of *L. monocytogenes* infection due to frozen vegetables, EFSA and ECDC advised consumers to thoroughly cook frozen vegetables that are not labelled as RTE (EFSA and ECDC, 2018). Like consumers, retail and food service operations sometimes use frozen vegetables in making RTE foods such as salads and smoothies, or retail and food service operations may provide frozen vegetables such as peas and corn on salad bars. If *L. monocytogenes* is present in a frozen vegetable, and the frozen vegetable is thawed and prepared for use as an RTE food without cooking and this food is held refrigerated, the *L. monocytogenes* could multiply during refrigerated storage and potentially cause illness.

Spices (such as pepper) have been found to contain *Salmonella* and large outbreaks of *Salmonella* illness associated with the consumption of microbiologically contaminated black, red, or white pepper have occurred in the United States (FDA, 2017). Most spices that are packaged for retail sale have been processed to control pathogens such as *Salmonella* (FDA, 2017), and the Food Code includes spices as an example of RTE food. However, a 2015 FDA regulation (Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food; 21 CFR part 117) allows a food manufacturer that produces a food (such as a spice or a spice/seasoning blend) that has a known or reasonably foreseeable hazard (such as *Salmonella*) to provide that food to a commercial retail or foodservice operation without first processing the food to control that hazard, as long as the manufacturer discloses to the commercial retail or foodservice operation that the food has not been processed to control the hazard. (See 21 CFR 117.136.) Retail and foodservice operations need to be aware that food that bears such a disclosure must be processed (e.g., by cooking) to control the hazard before making the food available to consumers. For example, a manufacturer might provide to a retail or foodservice operation a taco seasoning blend or spaghetti sauce spice blend designed to be added to a food that is to be cooked (e.g., tacos or spaghetti sauce).

Another 2015 FDA regulation (Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; the produce safety regulation; 21 CFR part 112) governs the production of produce unless the produce (such as potatoes and winter

squash) is rarely consumed raw. Produce (such as apples) that is covered by the produce safety regulation can be exempt from most requirements of that regulation if it will be commercially processed to control pathogens. (See 21 CFR 112.2(b).) For example, a farm that grows apples and sells the apples to a juice processor is exempt from most of the requirements of the produce safety regulation, as long as the apple grower discloses to the juice processor that the apples have not been processed to control pathogens. That apple grower could also sell its apples to a retail or foodservice operation - e.g., for use in making apple pies - as long as the apple grower discloses to the retail or foodservice establishment that the apples were not processed to control pathogens. Retail and foodservice operations need to be aware that produce that bears such a disclosure must be processed (e.g., by cooking) to control pathogens before making the produce available to consumers.

Recommended Solution: The Conference recommends...:

A letter be sent to FDA requesting that the Food Code address the cooking of Foods That Bear a Manufacturer's Cooking Instructions or That Disclose That the Food Has Not Been Processed to Control Pathogens specifying that: (1) packaged food that bears a manufacturer's cooking instructions shall be cooked according to those instructions before use in foods that will not be cooked or offered to the consumer in unpackaged form for consumption (e.g., frozen vegetables used in refrigerated salads or served on salad bars) unless the manufacturer's instructions also specify that the food also can be consumed without cooking (e.g., dried soup mix with instructions to be cooked as a soup or used uncooked in preparing a dip); and (2) food that bears a disclosure that it has not been processed to control pathogens shall be cooked before use in ready-to-eat (RTE foods) or offered to the consumer for consumption.

Note: This revision is not intended to apply to raw animal foods

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Supporting Attachments:

- "Incidence and Trends of Infection with Pathogens Transmitted Commonly..."
- "Preliminary Incidence and Trends of Infections with Pathogens Transmitted.."
- "Multi-country outbreak of *Listeria monocytogenes* sergroup IVb, multi-locus"
- "Risk Profile: Pathogens and Filth in Spices"

It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.